

FILE COPY

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FINAL DECISION AND ORDER

ROBERT F. SCHULTZ, R.PH
RESPONDENT.

95 PHM 40

The parties to this action for the purposes of §227.53, Wis. Stats., are:

Robert F. Schultz, R.Ph.
4956 Borchers Beach Road
Waunakee, WI 53597

Wisconsin Pharmacy Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Robert F. Schultz (dob 9/20/25) is and was at all times relevant to the facts set forth herein a registered pharmacist licensed in the State of Wisconsin pursuant to license #5765, originally granted on 7/10/48.

2. The Respondent did, on 6/7/95, prepare a one-half gallon container of 10% formalin solution in a one-gallon container for future use in compounding. Respondent prepared the solution by combining distilled water with a quantity of 37% formaldehyde. At the time of preparation, respondent had two identical unlabeled gallon containers on the compounding counter, one of which contained one-half gallon of distilled water and one of which contained one-half gallon of the newly compounded 10% formalin. Respondent finished making the solution, and left the compounding area to make a label for the formalin container. When he returned, he mistakenly placed the formalin label on the container of distilled water, and placed the unlabeled container (the formalin solution) with several other containers of distilled water.

3. Following respondent's actions, several other pharmacists unknowingly used the formalin solution (which they mistakenly believed to contain only distilled water) to compound oral suspension medications for pediatric patients, and dispensed these medications to as many as 39 patients.

CONCLUSIONS OF LAW

4. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter pursuant to §450.10, Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

5. The conduct described in paragraph 2, above, violated § Phar 10.03(2), Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that Robert F. Schultz, R.Ph., is REPRIMANDED for his unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that the license of respondent is LIMITED in the following respects:

(a) Respondent shall not be a managing pharmacist, nor shall he practice pharmacy in any business entity in which he has an ownership interest.

(b) Respondent shall cause a full written report to be created and preserved upon discovery of any error by respondent involving compounding or the requirements of § Phar 7.01(1), Wis. Adm. Code, which reports shall be sent to the Board quarterly. Respondent shall meet with his supervisor monthly to review any practice errors and determine methods to prevent such errors.

(c) Respondent shall cause his immediate supervisor in any pharmacy in which respondent practices more than eight hours per week to file quarterly reports with the Board, commencing on the first day of the third month following the date of this order. These reports shall state the number of compounding, dispensing or other practice errors committed by respondent, the circumstances surrounding each and the response to the error, the general progress of respondent in reducing such errors, and any other information regarding respondent's ability to practice pharmacy with safety to patient and public. Respondent shall furnish the Board with releases for those portions of his personnel file at each of his employers which constitute performance evaluations or disciplinary records.

(d) Respondent shall furnish each of his employers, irrespective of the number of hours, or frequency with which, he practices for that employer, with a copy of this order, and shall report all current employers and any changes in his employers, including their addresses and telephone numbers, to the Board within 5 days of such change.

(e) Respondent may petition the Board for an order terminating this limitation on his license and restoring his unlimited license after two years or 4000 hours of active practice under these limitations, whichever occurs later. It shall be totally within the discretion of the board to grant or deny such a petition, and a denial of such a petition in whole or in part shall not be deemed a denial of license and shall not entitle respondent to a hearing on such a denial.

IT IS FURTHER ORDERED, that respondent shall FORFEIT \$1,000, to be paid within 45 days of this Order.

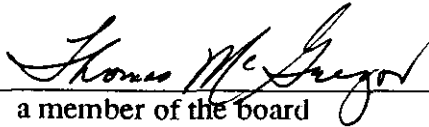
IT IS FURTHER ORDERED, that respondent shall pay COSTS in this matter in the amount of \$500, within 30 days of this Order.

IT IS FURTHER ORDERED, that pursuant to §227.51(3), Wis. Stats., and ch. RL 6, Wis. Adm. Code, if the Board determines that there is probable cause to believe that respondent has violated any term of this Final Decision and Order, the Board may order that the license of respondent be summarily suspended pending investigation of the alleged violation.

Dated this December 12, 1995.

WISCONSIN PHARMACY EXAMINING BOARD

by:


a member of the board

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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ROBERT F. SCHULTZ, R.PH.,
RESPONDENT.

STIPULATION
95 PHM 40

It is hereby stipulated between the above Respondent and the undersigned prosecuting attorney for the Division of Enforcement of the Department of Regulation and Licensing, as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Respondent by the Division of Enforcement. Respondent consents to the resolution of this investigation by agreement and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation, respondent waives the following rights with respect to disciplinary proceedings: the right to a statement of the allegations against respondent; a right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against respondent; the right to call witnesses on respondent's behalf and to compel attendance of witnesses by subpoena; the right to testify personally; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code

3. Respondent is aware of respondent's right to seek legal representation and has obtained legal advice before signing this Stipulation

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties agree that an attorney for the Division of Enforcement may appear before the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, for the purposes of speaking in support of this agreement and answering questions that the members of the Board and its staff may have in connection with their deliberations on the case.

7. The Board Advisor in this matter may participate freely in any deliberations of the Board regarding acceptance of this Stipulation and the proposed Final Order, and may relate to the Board any knowledge and views of the case acquired during the investigation.

Stipulation
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8. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

9. Respondent is informed that should the Board adopt this stipulation, the board's final decision and order is a public record and will be published in the Monthly Disciplinary Report issued by the department. A summary of the order will be published in the Wisconsin Regulatory Digest issued semiannually by the Board. This is standard department procedure and in no way specially directed at Respondent.

Robert F. Decker 12/8/95
Respondent Date

Thomas N. Kirschbaum 12/8/95
Thomas N. Kirschbaum, Attorney for Respondent Date

Arthur Huxton 12/12/95
Prosecuting Attorney Date
Division of Enforcement

Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935
(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On December 12, 1995, the Pharmacy Examining Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$500.00 Case #: 95 PHM 40

The amount of the forfeiture is: \$1,000.00 Case #: 95 PHM 40

Please submit a check or a money order in the amount of \$ 1,500.00

The costs and/or forfeitures are due: Costs - January 11, 1996 Forfeiture - January 26, 1996

NAME: Robert F. Schultz LICENSE NUMBER: 5765

STREET ADDRESS: 4956 Borchers Beach Road

CITY: Wauunakee STATE: WI ZIP CODE: 53597

Check whether the payment is for costs or for a forfeiture or both:

☒ COSTS ☒ FORFEITURE

Check whether the payment is for an individual license or an establishment license:

☒ INDIVIDUAL ☐ ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

For Receipting Use Only

#2145 (4/95)
Ch. 440.22, Stats.

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN PHARMACY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

December 15, 1995

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)